

67,008-076
S-5656REMARKS

Applicant wishes to thank the Examiner for the detailed remarks and the second non-final office action. Claims 1, 4, 7-9, 13, 19, 23-24 have been amended and claims 3, 6, 10-12, 148-18, 20-22, and 25-26 have been cancelled. New claims 27-30 are presented. Accordingly, claims 1, 2, 4, 5, 7-9, 13, 19, 23-24, 27-30 are pending.

Claims 1-7 and 22-26 were rejected under 35 U.S.C. §112, second paragraph. Applicant respectfully submits that the claims as amended are in proper condition according to §112.

Claims 1-7, 13, 19-23, and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by *Kanski* (2,309,172). Applicant respectfully traverses this rejection. *Kanski* discloses a vibrating unit that is attached to a shaker and is driven by the motor 85 through the belt 84. [See Figures 19 and 20 and p. 5, Col. 2, lines 62-71.] The Examiner interprets element 64 as the first circular member. Element 64, however, rotates upon a shaft 57. Claims 1, 13, and 19 have been amended to recite a rotationally fixed first circular member. *Kanski* cannot meet the limitations of amended claims 1, 13, and 19. The amended claims are properly allowable.

Claims 1-7, 13, 19-23, and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by *Tripp* (2688896). As Applicant has previously argued, *Tripp* is non-analogous art. The claims are properly allowable for this reason alone.

In the Response to Arguments section, the Examiner contends that the recitation "force generator" has not been given patentable weight because the recitation occurs in the preamble. Applicant has amended claim 19 to positively recite a force generator thus rendering the Examiner's contention moot. Furthermore, claims 1 and 13 each recite to generate a vibratory inertial force.

Even if *Tripp* is considered analogous art, the Examiner's expansive interpretation of a pin in a delicate celestial navigation instrument as a "mass" cannot be sustained. The Examiner broadly interprets that pin 413 can be construed to be a "mass" simply because it is a "three-dimensional element." Of course, anything has a mass irrespective of how infinitesimally small that element is. However, this is not a reasonable interpretation. While it is true that the claims in a patent application are to be given their broadest reasonable interpretation consistent with the

67,008-076
S-5656

specification during prosecution of a patent application (see, for example, *In re Zietz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)), it is also well settled that terms in a claim should be construed as those skilled in the art would construe them (see *Specialty Composites v. Cabot Corp.*, 845 F.2d 981, 986, 6 USPQ2d 1601, 1604 (Fed. Cir. 1988) and *In re Johnson*, 558 F.2d 1008, 1016, 194 USPQ 187, 194 (CCPA 1977)). Further, as pointed out by our reviewing court in *Phillips v. AWH Corp.*, 415 F.2d 1303, 1315, 75 USPQ2d 1321, 1327 (Fed. Cir. 2005), the claims, of course, do not stand alone but rather are part of a fully integrated written instrument consisting principally of a specification that concludes with the claims.

Even taking the expansive -- and improper -- interpretation made by the Examiner that the pin 413 can be construed to be a "mass" because it is a "three dimensional element," the celestial navigation instrument of *Tripp* cannot under any proper interpretation be construed as generating a vibratory inertial force. Certainly, as recited in claim 13, the vibratory inertial force must be interpreted to be at least significant enough to minimize a vibratory force from the main rotor assembly.

Claims 13 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Vincent* (5853144) in view of *Kanski*. Claims 1 and 22-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Vincent* (5853144) in view of *Kanski*. Applicant respectfully traverses these rejections as there is absolutely no teaching, suggestion, or motivation to modify *Vincent* in view of *Kanski* as proposed. *Vincent* discloses an electrohydraulic actuator 19 connected between the fuselage 12 and raft 17, adjacent each of the four elastomeric attachment units 18. *Vincent* discloses that the electrohydraulic actuators 19 are only operable in a linear manner. As admitted by the Examiner, *Vincent* fails to provide steps of defining two different circular paths wherein one path is one-half the size of the other so that a member having a mass at a circumference thereof makes one revolution around one pathway and making one orbit around the other path. In other words, *Vincent* discloses only linear motion -- not rotational.

Kanski discloses a vibrating machine mainly applied to such operations as sizing, scalping, and similar operations usually defined by screening for the separation of bulk materials composed of particles having different physical properties such as specific gravity, surface characteristics, shape of the particles, etc. *Kanski* performs these operations with an epicyclic geartrain or wheel train. *Vincent utilizes linear motion while Kanski utilizes rotational motion*. *Kanski* is essentially

67,008-076
S-5656

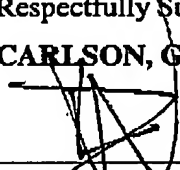
a shaker while *Vincent* attempts to reduce vibration. Each reference therefore discloses completely different motions for exactly opposite purposes. In other words, the desired goals of the cited references are anathema to each other. *Vincent* controls linear actuators to minimize vibration while *Kanski* rotates to power a shaker. One's purpose is minimization the other's maximization. Simply, there is no motivation to combine *Vincent* in view of *Kanski* as proposed. The only motivation to make the combination as proposed is by following the knowledge disclosed within the present invention. This is impermissible usage of hindsight in an attempt to recreate Applicant's device. Accordingly, the claims are properly allowable.

New claims 27-30 recite further features of the present invention which are neither disclosed nor suggested by the cited references and are thus properly allowable.

Applicant believes that no additional fees are required; however, should any additional fees or extensions of time be required, the Commissioner is authorized to charge Deposit Account No. 19-2189.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,
CARLSON, GASKEY & OLDS, P.C.



DAVID L. WISZ
Registration No. 46,350
Attorneys for Applicant
400 West Maple, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: May 15, 2005

N:\Clients\SIKORSKY\IP0007\PATENT\HELOAmnd076-08-18-2005--.doc